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before the employee actually enters on duty, on the first day in a pay status in an agency. However, terminated retirement, health benefits, and group life insurance coverage must be reinstated retroactively when, in the judgment of OPM, the failure to make the required current deposit was due to circumstances beyond the employee's control and the required payments were deposited at the first opportunity. Coverage under a system other than the Civil Service Retirement System must be reinstated retroactively if the agency which administers the retirement system determines that the failure to make the required current deposit was due to circumstances beyond the control of the employee and the required payments were deposited at the first opportunity.

[73 FR 64860, Oct. 31, 2008]

§ 352.310 [Reserved]

§ 352.311 Reemployment.

(a) An employee who transferred to an international organization with the consent of the employing agency is entitled to be reemployed in his or her former position, or one of like seniority, status, and pay, within 30 days of applying for reemployment if the employee:

(1) Is separated, either voluntarily or involuntarily, without cause, within the term of employment with an international organization; and

(2) Applies for reemployment with the employing agency or its successor no later than 90 days after separation from the international organization.

(b) Pay upon reemployment will be set at that to which the employee would have been entitled had the employee remained with the employing agency.

(c) When an employee's reemployment right is to a position in the SES, reemployment may be to any position in the SES for which the employee is qualified. The employee must be returned at not less than the SES rate of basic pay as determined under 5 CFR part 534, subpart D, at which the employee was being paid immediately before transfer to the international organization, or if pay has been adjusted

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under § 352.314(c), at not less than the adjusted pay level.

(d) The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are creditable service for all appropriate civil service employment purposes (e.g., tenure, service computation date, retirement, time in grade). Employees, upon return, are also entitled to restoration of any sick leave.

(e) An employee who elected to retain Federal retirement coverage while employed by the international organization and has made all deposits required for such coverage may make contributions to the TSP which he or she missed as a result of the service with the international organization, and receive make-up agency contributions and lost earnings on the agency contributions, consistent with applicable TSP requirements.

[73 FR 64861, Oct. 31, 2008]

§ 352.312 When to apply.

An employee may apply for reemployment, in writing, either before or after separation from the international organization. If the employee applies before separation, the 30-day period prescribed in § 352.311 begins either with the date of the application or 30 days before the employee's date of separation from the international organization, whichever is later. If the employee applies for reemployment after separation, the application must be received by the employing agency no later than 90 days after separation from the international organization.

[73 FR 64861, Oct. 31, 2008]

§ 352.313 Failure to reemploy and right of appeal.

(a) When an agency fails to reemploy an employee within 30 days of receiving the employee's application, it must notify the employee, in writing, of the reasons and of the employee's right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency must comply with the provisions of § 1201.21 of this title.

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(b) If the agency fails to reach and issue a decision to the employee within 30 days from the date of the application for reemployment, the employee is entitled to appeal the agency's failure to issue a decision to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) An employee may submit an appeal, alleging that the agency has failed to comply with any of the other provisions of sections 3343 and 3581-3584 of title 5, United States Code, or of this part, to the Merit Systems Protection Board under the provisions of the Board's regulations.

[73 FR 64861, Oct. 31, 2008]

§ 352.314 Consideration for promotion and pay increases.

(a) The employing agency must consider an employee who is detailed or transferred to an international organization for all promotions for which the employee would be considered if not absent. A promotion based on this consideration is effective on the date it would have been effective if the employee were not absent.

(b) When the position of an employee who is absent on detail or transfer to an international organization is upgraded during the employee's absence, the employing agency must place the employee in the upgraded position upon return.

(c) The employing agency must consider an employee who is detailed or transferred to an international organization from an ungraded pay system for all pay increases for which the employee would have been considered if not absent. An increase is effective on the date it would have been effective if the employee were not absent.

[73 FR 64861, Oct. 31, 2008]

Subpart D—Employment of Presidential Appointees and Elected Officers by the International Atomic Energy Agency

AUTHORITY: Sec. 6(c), 71 Stat. 455; 22 U.S.C. 2025(c); E.O. 10774, 3 CFR, 1954-1958 Comp., p. 418, as amended by E.O. 10804, 3 CFR, 1959-1963 Comp., p. 328.

§ 352.401 Purpose.

The purpose of this subpart is to implement section 6(b) of the International Atomic Energy Agency Participation Act of 1957 and Executive Order 10774 as amended by Executive Order 10804 to protect the civil service rights and privileges, wherever appropriate, of Presidential appointees and elected officers who leave their positions and within 90 days enter employment with the International Atomic Energy Agency.

§ 352.402 Coverage.

This subpart applies to all officers, as defined in § 352.403(b), of any branch of the Federal Government.

§ 352.403 Definitions.

In this subpart:

(a) *Agency* means the International Atomic Energy Agency;

(b) *Officer* means any Presidential appointee or elected officer who leaves his position after August 27, 1957, and within 90 days enters employment with the agency; and

(c) *Term of employment* means not more than 3 consecutive years of employment beginning with entrance on duty in the agency.

§ 352.404 Retirement and insurance.

(a) *Coverage.* (1) To obtain retirement benefits for a term of employment with the agency, an officer covered by subchapter III of chapter 83 of title 5 United States Code, within 90 days after the date he is separated from the agency, shall pay to OPM all necessary employee deductions and agency contributions for coverage under that subchapter for his term of employment with the agency. Interest shall not be charged an officer on any payment of necessary employee deductions and agency contributions. The amount of the employee deductions so paid shall be added to the officer's lump-sum credit in the Civil Service Retirement and Disability Fund.

(2) To retain coverage under chapter 87 of title 5, United States Code, during his term of employment with the agency, an officer covered by that chapter